

THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA	§	
	§	
vs.	§	CRIMINAL NO. 4:21CR61
	§	
DANIEL PHILLIP MARTINEZ (2)	§	

**REPORT AND RECOMMENDATION ON
DEFENDANT'S COMPETENCY TO STAND TRIAL**

Pursuant to 28 U.S.C. § 636(b) and the Local Rules for the United States District Court for the Eastern District of Texas, this criminal proceeding is before the undersigned United States Magistrate Judge.

On March 30, 2021, Defendant's counsel filed Defendant Motion for Psychological and/or Psychiatric Examination [Dkt. 10] seeking an examination pursuant to 18 U.S.C. § 4241 at an appropriate Bureau of Prisons facility, and that a psychiatric report of findings be filed with the Court consistent with 18 U.S.C. § 4247(b). The Court granted that motion on April 1, 2021 [Dkt. 18]. Defendant was subsequently evaluated by Dr. Lacie Biber. The Court has received the report from the Bureau of Prisons, and copies have been furnished to the Assistant United States Attorney and defense counsel [Dkt. 24, Sealed].

A competency hearing was conducted on June 24, 2021, before U.S. Magistrate Judge Christine A. Nowak, during which the report was admitted. At the hearing, Defendant appeared in court with his counsel, Frank Henderson. Defendant was given the opportunity to present evidence and call witnesses. Defendant did not offer any witnesses or evidence. Moreover, Defendant did not present any objections to the report, including Dr. Biber's opinion on competency. The Government also did not object to the report findings.

Dr. Biber's report concludes that "Mr. Martinez is aware of the nature of his charges and appears to possess adequate factual information about the court process. He was able to discuss reasons why a defendant may choose a specific defense strategy in a rational and logical manner. He became aware of his behavior in the courtroom during his detention hearing, and was able to understand how his humor and informality may lead others to question his ability to comprehend serious and complex matters. Therefore, it is the opinion of this evaluator that Mr. Martinez is able to understand the nature and consequences of the proceedings against him and assist properly in his defense." The undersigned considered the report and concludes that Defendant is not presently suffering from a mental disease or defect rendering him mentally incompetent and is able to understand the nature and consequences of the proceedings against him and to assist properly in his defense. Defendant has a rational and factual understanding of the proceedings against him and has sufficient present ability to consult with his attorney with a reasonable degree of rational understanding. 18 U.S.C. §4241(d); see also Dusky v. United States, 362 U.S. 402 (1960).

RECOMMENDATION

For the foregoing reasons, the Court recommends that Defendant be found competent to stand trial because he understands the nature and consequences of the proceedings against him and is able to assist in his defense. See 18 U.S.C. § 4241. It is further recommended that the speedy trial time be excluded from March 30, 2021 (the date the Defendant filed the instant Motion), until the date on which the District Judge signs the order adopting this report and recommendation.

Both Parties waived the fourteen (14) day objection period.

SIGNED this 24th day of June, 2021.



Christine A. Nowak
UNITED STATES MAGISTRATE JUDGE